IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.6624 OF 2003

Sahebrao Balasaheb Deshmukh, and Anr Petitioners

vs

Smt. Sumitra Nanaso Shinde and Anr. Respondents

MrDilip Bodake, for the petitioners.

Mr Bandal i/b Mr Uday Warunjikar, for the respondents.

CORAM : D.B.BHOSALE,J.

DATE : 21st October, 2004.

PC:

1. Heard the learned counsel for the parties.

2. Rule. Rule returnable forthwith. Mr Bandal, learned counsel, waives service for the respondents. By consent, rule is heard finally.

2. This petition challenges the order dated 2.5.2003 by which the application Exhibit-44 for setting aside "No W.S.Order" and seeking extension of time to file W.S. has been rejected. It was rejected in view of the recent amendment of Order VIII Rule 1 of the Code of Civil Procedure, which came into force on 1.7.2002, holding that the Court has no powers to extend time for filing written statement beyond a period of 90 days. However, in view of the judgment of this Court in **Shailaja A.Sawant Vs Sayajirao Banpatrao Patil, 2004 (2)**

Mh.L.J.419 the learned counsel appearing for the parties have agreed for the following order:

(i) The impugned order dated 2.5.2003 passed by the Jt.Civil Judge, Jr.Dn., Patan below Exhibit-44 in Regular Civil Suit No.178 of 2002 is set aside. The learned Judge shall decide the application Exhibit-44 afresh keeping in view the observations made by this Court in Shailaja A.Sawant case (supra) as expeditiously as possible and preferably within a period of eight weeks from the date of production of this order. It is open for the parties to file additional affidavit explaining as to why the written statement could not be filed within 90 days and opposing such explanation, if so advised. All contentions are kept open.

(ii) Rule is made absolute in the above terms.

. An authenticated copy of this order may be made available to the parties.

(D.B.BHOSALE, J.)